(28)

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No. 150 of 2007

PETITIONERS

1. Geeta Gupta W/o. Ram Mohan Gupta, Aged about 55 years,
2. Ram Mohan Gupta S/o Late Lakhan Lal Gupta, Aged about 62 years,
3. Sunil Kumar Gupta S/o Ram Mohan Gupta, Aged about 35 years.

All R/o Ketha Para, Aarang, Dist : Raipur- (C.G.)

Versus

NON-APPLICANT

1. State of Chhattisgarh Through – P.S. City Kotwali, Bilaspur, Dist : Bilaspur (C.G.)
2. Reena Gupta W/o Shri Sunil Kumar Gupta, Aged about 31 years, R/o Beside Shiv Talkies, Bilaspur (C.G.)

(APPLICATION UNDER SECTION 482 OF Cr.P.C.)

Appearance:

Smt. Geeta Gupta, Shri Ram Mohan Gupta and Shri Sunil Kumar Gupta (accused persons/petitioners) appear in person alongwith Ku. Sunita Jain, Advocate.

Shri N.K. Mehta, Panel Lawyer appears for the State/respondent no.1.

Smt. Reena Gupta wife of Sunil Kumar Gupta, /complainant appears in person alongwith Shri Prateek Sharma, Advocate.

ORAL ORDER
(09.05.2007)

SUNIL KUMAR SINHA, J,

Heard.

This petition has been filed against the order dated 21.03.2007 passed by the Additional Chief Judicial Magistrate, Bilaspur in Criminal Case No. 944/2006, where by he has rejected

the application filed under Section 320 of Cr.P.C. for compounding the offence and termination of the case on account of composition. The learned Magistrate has stated that as the offence under Section 498-A is non-compoundable, therefore, no orders can be passed on such application.

Learned counsel for both the parties argue that now the complainant/respondent No.2 and the petitioners have amicably settled their matter and respondent No.2 does not want to prosecute the criminal case any more and for this reason, the parties had filed an application for composition before the Magistrate on 13.03.2007, which was rejected by the said Court by passing impugned order dated 21.03.2007. They pray for quashment of criminal proceedings on the ground of settlement of the wife and also on the ground of compromise between the parties.

I have heard learned counsel for the parties at length and have also perused the records of the criminal misc. petition.

Admittedly, the respondent No. 2 is the wife of petitioner No. 3 and is daughter-in-law of petitioners No. 1 & 2. On some dispute after marriage, she lodged a complaint vide crime No. 117/2004 under Sections 498-A & 506/34 of I.P.C. The charge-sheet in the said crime was filed and the criminal case No. 944/2006 was pending pertaining to the said crime number in the Court of Additional Chief Judicial Magistrate. It is for this crime number, the said application was filed, which was dismissed.

The jurisdiction of the High Court under Section 482 Cr.P.C., regarding quashment of a proceeding u/s 498-A I.P.C. in view of Section 320 Cr.P.C. is no longer *res integra.* It has been observed by the Apex Court in the matter of ***B.S. Joshi and others – Vs- State of Haryana & another, 2003 (2) C.G.L.J. 35*** that 'there is no doubt that the object of introducing Chapter XX-A containing section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her

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relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter –XX-A of the Indian Penal Code.' Observing this, the Apex Court laid down that such proceedings can be quashed by the High Court under Section 482 Cr.P.C. in its inherent jurisdiction.

After hearing the parties and on being satisfied that the parties have mutually compromised the matter and the complainant (wife) does not want to prosecute the criminal case and both the parties are praying for quashment of the proceedings under Section 498-A I.P.C., it would be just and proper for this Court to accept the compromise and quash the criminal proceedings pending before the Additional Chief Judicial Magistrate, Bilaspur under the inherent jurisdiction conferred u/s 482 Cr.P.C.

Accordingly, the prayer is allowed.

The proceedings of criminal case No. 944/2006 (State of C.G. –Vs- Geeta Gupta & two others) pending in the Court of Additional Chief Judicial Magistrate, Bilaspur are hereby quashed.

No costs.

Sd/-
Sunil Kumar Sinha
Judge

Rao/vatti